

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Petition of USTelecom for Forbearance Pursuant to)	WC Docket No. 18-141
47 U.S.C. § 160(c) to Accelerate Investment in)	
Broadband and Next-Generation Networks)	
)	
Regulation of Business Data Services for)	WC Docket No. 17-144
Rate-of-Return Local Exchange Carriers)	
)	
Business Data Services in an Internet Protocol)	WC Docket No. 16-143
Environment)	
)	
Special Access for Price Cap Local Exchange)	WC Docket No. 05-25
Carriers)	

**COMMENTS OF FRONTIER COMMUNICATIONS
CORPORATION**

Frontier Communications Corporation (“Frontier”) submits these comments to the Commission’s recent *Public Notice*¹ seeking comment on the extent of competition in the transport market reflected in the Commission’s *April Data Tables* and the underlying *2015 Data Collection*.² Simply put, there is robust competition for transport nationwide, and relief from outdated pricing regulation, as the Commission found in the *BDS Order*,³ in addition to relief

¹ *Wireline Competition Bureau Seeks Focused Additional Comment in Business Data Services and USTelecom Forbearance Petition Proceedings and Reopens Secure Data Enclave*, Public Notice, WC Docket Nos. 18-141, 17-144, 16-143, 05-25, RM-10593, DA 19-281 (WCB rel. Apr. 15, 2019).

² *See Business Data Services in an Internet Protocol Environment et al.*, WC Docket Nos. 16-143 et al., Tariff Investigation Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 4723, ¶¶ 29-37, 39-43 (2016) (describing the collection).

³ *See Business Data Services in an Internet Protocol Environment et al.*, 32 FCC Rcd 3459 (2017) (“*BDS Order*”).

from burdensome unbundled network element (“UNE”) transport regulation is warranted. The Commission’s *April Data Tables*, coupled with the *2015 Data Collection* and the FCC’s most recent broadband deployment data, demonstrate nationwide competition and provide further support for the copious evidence in the record showing that the Commission should uphold its findings in the *BDS Order* that transport is competitive nationwide.⁴ With this level of competition, the data also shows that the Commission should extend its findings regarding business data services (“BDS”) transport to UNE transport and deregulate UNE transport nationwide.

Earlier this week, USTelecom submitted an *ex parte* and a declaration by Compass Lexecon economists Glenn Woroch and Robert Calzaretta explaining that the *April Data Tables* and the FCC’s most recent Form 477 Data demonstrate nationwide competition.⁵ Analyzing the FCC’s most recent public deployment data, the economists showed that “as of December 2017, nearly 90 percent of the U.S. population and 90 percent of households had access to cable services with at least 25 Mbps download speeds.”⁶ There is no doubt that there has been more growth in competition in the intervening 16 months. And that data does not account for fixed wireless competition, satellite competition, or mobile wireless and eventual 5G competition. In other words, cable competitors, with their own transport, provide broadband virtually nationwide. According to the economists: “the Form 477 data confirm that cable companies

⁴ *Id.* ¶ 85.

⁵ See Letter from Patrick Halley, USTelecom, to Marlene Dortch, FCC, Docket No. 18-141 (May 6, 2019); Declaration of Glenn Woroch and Robert Calzaretta, WC Docket No. 18-141 (attached thereto) (“May 6 Economists’ Decl.”).

⁶ May 6 Economists’ Decl. at 2-3.

have already circumvented ILEC loop and transport facilities, which by itself confirms that access to ILEC-provided UNE loop and transport is no longer necessary to facilitate competition.”⁷

The economists’ analysis of the *April Data Tables* – data tables that were focused only on transport – confirm this story of nationwide transport competition. As they explain, “[t]he *April Data Tables* show that 78 percent of ILEC central offices are within a half mile of competitive fiber, and that 56 percent are within 500 feet.”⁸ If one could weight the wirecenters based on actual percentage of transport traffic, the percentage of overall transport at these wirecenters would undoubtedly be significantly higher, but the enclave lacked sufficient data to allow that calculation.⁹ As the economists continued, “[o]verall, these recently-released datasets indicate that there is near ubiquitous facilities-based competition for local transport,” in addition to loop services.¹⁰

These data simply reconfirm the Commission’s findings from 2017 that there is “strong evidence of substantial competition” and that “market conditions . . . suggest proof to the level of competition regulation of TDM transport and other non-end user channel termination services is not justified.”¹¹ For instance, as the Commission found in the *BDS Order*, “data shows that in all price cap territories, 92.1% of buildings served were within a half mile of competitive fiber

⁷ *Id.* at 5.

⁸ *Id.* at 2.

⁹ *See id.* at 6 n.14.

¹⁰ *Id.* at 2.

¹¹ *BDS Order* ¶ 79.

transport facilities.”¹² Now we have confirmation that not only are over 90% of buildings within a half mile of competitive transport, over 90% of the population are in census blocks where cable provides 25/3 Mbps. At the same time, we have seen a continued erosion of incumbent LEC market share. While at the time of the 1996 Act and the adoption of UNE obligations incumbent LECs had virtually 100% market share, the number of U.S. households subscribing to an incumbent LEC voice line is projected to fall close to 10% by year-end 2018.¹³

The Commission’s findings with respect to BDS transport apply with equal force to UNE transport. As USTelecom explains, “[t]here is nothing unique about UNE-based transport that distinguishes it from transport used for BDS. All transport, whether UNE-based or commercial, carries aggregated traffic from one point on the network to another point on the network.”¹⁴ In Frontier’s experience, purchasers treat BDS transport and UNE transport substitutes. Indeed, the UNE transitions proposal submitted in this docket, agreed to by the largest purchasers and sellers of UNEs – AT&T, CenturyLink, Frontier, Verizon, and Windstream – explicitly recognize they are a substitute and provide a transition process.¹⁵

Based on the extensive data showing competition in the record, the Commission should reaffirm its findings that the market for transport is competitive and extend the deregulation counseled by those findings from its BDS regulations to its UNE regulations. By continuing to

¹² *BDS Order* ¶ 91.

¹³ Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks, WC Docket No. 18-141 at 8 (May 4, 2018) (“*Petition*”) (explaining that just 11% of U.S households are expected to subscribe to incumbent LEC switched voice service by year-end 2018).

¹⁴ *Ex Parte* at 10.

¹⁵ See Letter from USTelecom, Windstream, AT&T, CenturyLink, Frontier, and Verizon, to Marlene Dortch, FCC, Docket No. 18-141 (June 21, 2018).

chop down the regulatory underbrush that treats ILECs as monopolies, the Commission can level the regulatory playing field and spur next-generation 5G investments.

Respectfully submitted,

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